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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 5th April, 1972:—

BILL NO. 23 OF 1972

A Bill to provide for the registration of qualified persons and for the rendering of national service by such persons and for matters connected therewith.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the National Service Act, 1972.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "employer" means any person who employs any qualified person for doing any work in any establishment and includes any person entrusted with the supervision and control of qualified persons in such establishment;

(*b*) "establishment" means—

(*i*) any office, or

(*ii*) any place where any industry, trade, business or occupation is carried on, and includes any technical institution or training centre;

(*c*) "national service" means any service which is likely to assist the defence of India and civil defence or the efficient conduct of military operations and includes such social service as the Central Government may, if it is of opinion that it is necessary for public purposes so to do, by notification specify in this behalf;

(*d*) "notification" means a notification published in the Official Gazette;

(*e*) "prescribed" means prescribed by rules made under this Act;

(*f*) "qualified person" means a citizen of India who is ordinarily resident in India and who,—

(*i*) has obtained a recognised medical qualification within the meaning of the Indian Medical Council Act, 1956, or 102 of 1956.

(*ii*) has obtained, or has passed an examination which entitles him to obtain, a degree of a University or its equivalent qualification in any branch of engineering or technology or both.

Explanation.—For the purposes of this Act, a qualified person who is resident in India shall be deemed to be ordinarily resident there unless—

(*a*) he is residing there only for the purposes of attending a course of education; or

(*b*) the circumstances of his residence there are otherwise such as to show that he is residing there for a temporary purpose only; or

(*c*) he, being a person who was born or domiciled in any country outside India, has been resident in India for less than two years.

CHAPTER II

LIABILITY OF PERSONS TO RENDER NATIONAL SERVICE

Liability of persons to be called up for national service

3. (*1*) Every person who—

(*a*) is a qualified person at the commencement of this Act, or

(*b*) becomes a qualified person after such commencement,

shall, if he has not attained the age of thirty years at such commencement, or, as the case may be, on the date on which he becomes a qualified person, be liable until he attains the age of thirty years, to be called up for national service for a period of not more than four years.

(*2*) The period of national service for which a qualified person shall be liable to be called up under this Act shall begin from the date on which he is required by an enlistment notice served under this Act to present himself to the authority specified therein and shall end on the day when his term of national service is completed in accordance with the provisions of this Act.

Voluntary service in lieu of national service.

4. (*1*) If a qualified person has been enlisted under any other law for the time being in force, for service in one of the Armed Forces of the Union for a period of not less than four years, he shall perform the service required of the members of that Force in lieu of the national service required under this Act.

(*2*) If a qualified person has rendered or is rendering service, other than service in one of the Armed Forces of the Union and such service is declared by the Central Government to be equivalent to national service, the period of such service shall be deemed to be service in lieu of the national service required under this Act and he shall (unless he has ceased to be liable under this Act to be called up for national service), be liable to be called up for national service for such term as will, together with the service completed by him, be equivalent to the term of service for which persons are liable to serve under this Act.

(*3*) If any qualified person has been enlisted as a member of—

(*a*) the Indian Reserve Forces, regulated under the Indian Reserve Forces Act, 1888,

4 of 1888.

(*b*) the Territorial Army constituted under the Territorial Army Act, 1948,

56 of 1948.

(c) the Air Force Reserve or the Auxiliary Air Force Reserve constituted under the Reserve and Auxiliary Air Forces Act, 1952,

62 of 1952.

(*d*) the Indian Naval Reserve Forces raised and maintained under the Navy Act, 1957, or

62 of 1957.

(*e*) any other Force of the foregoing nature,

he shall not be called up, so long as he continues to be a member of that Force, to render national service under this Act:

Provided that he shall, after he has ceased to be a member of such Force, be liable to render national service (unless he has ceased to be liable under this Act to be called up for national service), for such term as will, together with the actual service rendered by him as a member of that Force, be equivalent to the term of service for which persons are liable to serve under this Act.

Liability to complete interrupted service.

5. If any qualified person serving in the Armed Forces of the Union ceases to serve therein before he has completed four years of such service, he shall, unless he has ceased to be liable under this Act to be called up for national service, be liable to be called up to serve for such term as will, together with the service completed by him, be equivalent to the term of service for which persons are liable to serve under this Act.

Power of Central Government to direct a person to render service with the Armed Forces of Union or other national service.

6. Subject to the provisions of section 3, the Central Government may, by order, require a qualified person to render service in the Armed Forces of the Union or such other national service, as it may specify in this behalf, for such period and at such place as may be specified in the order.

Discipline.

7. (*1*) Every qualified person enlisted under this Act for national service in the Armed Forces of the Union shall, subject to such conditions as may be prescribed, be bound to serve in any branch of the Armed Forces to which he is for the time being attached, and shall be subject to all laws, rules, regulations and orders in force for the time being in relation to such branch.

(*2*) Every qualified person enlisted for any national service, other than service in the Armed Forces of the Union shall, subject to such conditions as may be prescribed, be bound to serve in any position or post to which he is appointed for the time being, and shall be subject to all laws, rules, regulations and orders in force for the time being in relation to such position or post.

Power of Central Government to require any employer to release qualified persons.

8. (*1*) The Central Government may, by order in writing, require any employer to release any qualified person for employment in national service within such time as may be specified in the order.

(*2*) Where an employer releases a qualified person for employment in national service, such employer shall not be liable to pay the salary, wages and other emoluments, if any, of the qualified person for the period during which national service is or has been rendered by the qualified person.

(*3*) No contract, subsisting between a qualified person and his employer on the date of release of the qualified person for employment in national service, shall be enforceable until such qualified person has been discharged from national service.

(*4*) In computing the period specified in any contract of service in relation to a qualified person who has been called upon to render national service, the period of national service actually rendered by such qualified person shall be excluded.

(*5*) If any employer fails without sufficient cause to comply with the order made under sub-section (*1*), he shall be liable to be punished with imprisonment for a term which may extend to three years and also with fine which may extend to one thousand rupees.

Transfer.

9. The Central Government may, by regulations, make provisions for enabling or requiring a qualified person rendering national service in any branch of the Armed Forces of the Union to be transferred to any other branch of that Force or to any other branch of national service or *vice versa*.

Persons not to leave national service or be discharged therefrom unless permitted by Central Government.

10. (*1*) No qualified person rendering national service under this Act shall leave such service until he is discharged therefrom under section 17.

(*2*) No qualified person who has been served with a notice under sub-section (*1*) of section 13 or an enlistment notice under section 14 shall, if he is in any employment at the date of service of such notice, leave such employment or be discharged therefrom, except in accordance with the provisions of this Act:

Provided that nothing in this sub-section shall apply where the employment of a qualified person is terminated for the reason that the said person has been guilty of gross insubordination, habitual absence from work, or serious misconduct or has been convicted of an offence.

(3) If a qualified person who has been served with a notice under sub-section (1) of section 13 or an enlistment notice under section 14 leaves any employment in which he is engaged at the date of service of such notice or is discharged therefrom otherwise than in accordance with the provisions of this Act, he or, as the case may be, the person by whom he is discharged, shall be punished with imprisonment for a term which may extend to five years and also with fine which may extend to two thousand rupees.

CHAPTER III

REGISTRATION AND ENLISTMENT FOR NATIONAL SERVICE

Persons required to register.

11. (1) Every qualified person shall, if he is liable, at the commencement of this Act, to be called up for national service, make an application, within ninety days from such commencement, to be registered under this Act.

(2) Every qualified person who becomes liable after the commencement of this Act, to be called up for national service, shall, within thirty days from the date on which he becomes so liable, make an application to be registered under this Act.

Registration.

12. (1) The Central Government shall, by general order, direct qualified persons who are required to be registered under this Act,—

(a) to furnish at such place and time, in such manner and to such authority or person as may be specified therein, such particulars about themselves as the order may require; and

(b) to make at such place, in such manner and to such authority or person as may be specified in the order, an application to be registered under this Act.

(2) The order made under sub-section (1) may make different provisions in relation to different classes of qualified persons subject to registration and may provide for exempting from any requirements of the order of any class of qualified persons with respect to whom the Central Government is satisfied that particulars sufficient for the purposes of this Act can be ascertained otherwise than by virtue of those requirements.

(3) If any qualified person fails to comply with any requirement of the order made under sub-section (1), he shall be liable to be punished with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

(4) The Central Government shall ensure—

(a) that upon an application duly made for registration under this Act, the name and address of the applicant together with the particulars of the matters with respect to which information was given by the applicant in pursuance of the order made under sub-section (1) are entered in a register kept for the purposes of this Act, to be known as the "National Service Register"; and

(b) that upon the applicant being registered, a certificate of registration is issued to the applicant in the prescribed form.

(5) The information contained in the National Service Register shall not be used for any purpose other than the purposes of this Act:

Provided that nothing in this sub-section shall preclude the Central Government from disclosing, for statistical purposes, any information contained in the National Service Register.

(6) The Central Government may cause registration to be made of, and a certificate of registration to be issued to, any qualified person of a class exempted from any of the requirements of sub-section (1) as if that person had duly applied to be registered under this Act.

(7) (a) If any qualified person subject to registration under this Act communicates to the Central Government in the prescribed manner, that he has a preference for the Army, Air Force or Naval Service, that fact shall be recorded in the National Service Register.

(b) If a qualified person belonging to a class which is exempted from registration under this Act has a preference for the Army, Air Force or Naval Service, he shall intimate such preference to the Central Government in such manner as that Government may specify and, on receipt of such intimation, the Central Government shall cause such preference to be recorded in the National Service Register.

(8) (a) If any change occurs in the name or address of any qualified person while such person remains registered under this Act, or if any such person acquires any additional academic or professional qualification or distinction, he shall forthwith communicate the change of his name or address, or, as the case may be, the acquisition by him of additional academic or professional qualification or distinction to the Central Government in the prescribed manner and at the same time return to the Central Government, for correction, any certificate of registration held by him and if he fails to communicate the change of his name or address, or, as the case may be, the acquisition by him of the additional academic or professional qualification or distinction, he shall be liable to be punished with fine which may extend to five hundred rupees.

(b) Upon the receipt of a communication of the change of name of address of any qualified person registered under this Act or of acquisition by him of additional academic or professional qualification or distinction, the Central Government shall cause the necessary corrections to be made in the entries in the National Service Register and shall either cause the certificate to be corrected and returned to such person or cause a fresh certificate to be issued to him.

(9) The Central Government may, by rules made under this Act, provide for the issue, in specified circumstances, of fresh certificates of registration in place of certificates which have been lost, destroyed or defaced.

Notice of likelihood of calling up for national service.

13. (1) The Central Government may from time to time cause to be served on any qualified person subject to registration under this Act, and, if he is engaged in any employment, also on his employer, a written notice in the prescribed form stating that such person is likely to be called upon, at any time within a period of twelve months next following, to render national service.

(2) Omission to serve any notice referred to in sub-section (1) on an employer or the service of such notice on a person who is not, at the

time of service of such notice, the employer of the qualified person concerned, shall not invalidate the notice served under sub-section (*1*) on the qualified person and shall not affect the liability of the qualified person to be called up for national service.

(*3*) The Central Government may cause to be served, on any qualified person served with a notice referred to in sub-section (*1*), a written notice requiring that person to submit himself to an examination, by such authority, at such place and at such time, as may be specified in the notice, of his physical and mental fitness for being called up for national service.

(*4*) The Central Government may make regulations for the examination of the physical and mental fitness of persons subject to registration under this Act and such regulations may, in particular, enable the medical and other authority—

(*a*) in a case where he is unable to complete the examination on one occasion, to direct the person examined to submit himself for a further examination on a specified time and place;

(*b*) to direct the person examined to submit himself for examination by a specialist.

(*5*) The Central Government may by regulations determine the categories in which persons examined under this section are to be placed with reference to their physical and mental condition.

(*6*) If any qualified person fails to comply with the requirements of a notice served on him under sub-section (*3*) or any regulations made or directions given under sub-section (*4*), he shall be liable to be punished with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

(*7*) The court by which a qualified person is convicted of an offence under this section may, without prejudice to any penalty which may be imposed on him, order him to submit himself to an examination of his physical and mental fitness, further examination or examination by a specialist, as the case may be, at such place and at such time as may be fixed by the court and any such order may provide that such person shall be detained in custody until that time and shall be taken by a police officer to that place and at that time:

Provided that no person shall be detained in custody by virtue of any such order for more than twenty-four hours.

(*8*) A qualified person who, having been ordered by a court under sub-section (*7*) to submit himself to an examination of his physical and mental fitness and to be detained in custody, is taken by a police officer to the place and at the time at which he is to be examined, does not submit himself to an examination of his physical and mental fitness in accordance with the order, he may be arrested by that or any other police officer without a warrant.

(*9*) A qualified person, who fails to submit himself to an examination of his physical and mental fitness in accordance with an order made under sub-section (*7*), shall be liable to be punished with imprisonment for a term which may extend to three years, and also with fine which may extend to one thousand rupees.

(*10*) A notice served on any qualified person under this section shall cease to have effect if, before that date on which he is required to submit himself to an examination of his physical and mental fitness, he ceases to be subject to registration under this Act.

(*11*) The Central Government may pay to the medical or other authority, specialist, or any qualified person undergoing examination of his physical and mental fitness under this section such travelling and other allowances, including compensation for loss of remunerative time, in accordance with such scales as may be prescribed.

Enlistment for national service.

14. (*1*) Subject to such priorities as may be prescribed, the Central Government may cause to be served on any qualified person for the time being liable under this Act to be called up for national service, who has been found, after an examination of his physical and mental condition, fit for such service, a written notice in the prescribed form (in this Act referred to as the "enlistment notice") stating that he is called up for national service in such one of the Armed Forces of the Union or in such other service as may be specified in the enlistment notice and requiring him to present himself at such place and at such time and to such authority, as may be specified in the notice:

Provided that an enlistment notice under this section shall not require the person upon whom it is served to present himself on a day earlier than the fourteenth day after the date of service of the notice or such earlier day as may be determined at his request.

(*2*) An enlistment notice served on any qualified person shall cease to have effect if, before the day on which he is thereby required to present himself, he ceases to be liable to be called up for national service under this Act.

(*3*) The Central Government may pay to persons required to present themselves in pursuance of an enlistment notice served upon them travelling and other allowances in accordance with such scales as may be prescribed.

(*4*) If on the day specified in the enlistment notice as the day on which the person to whom the notice relates is required to present himself for national service—

(*a*) a postponement certificate relating to him is in force, or

(*b*) any appeal or application by him for postponement of national service is pending,

the enlistment notice served on him shall be of no effect.

(*5*) The enlistment notice shall be served in such manner as may be prescribed.

Salary, wages, etc., and travelling allowances to be paid to persons enlisted for national service.

15. (*1*) Every qualified person who is called up for national service under this Act, or who is transferred from one form of national service to another, shall be paid such salary, wages, allowances, pension, disability and death compensations and other benefits as may be prescribed:

Provided that such payments shall be on scales not less favourable than those admissible to persons of like qualifications, experience and length of service in similar positions under the Government.

Explanation.—For the purposes of the foregoing proviso, the length of standing of a qualified person as an engineer or medical practitioner, as the case may be, shall be construed as the length of his service.

(2) Any qualified person who is called up for national service or transferred from one form of national service, or from one place of employment in the national service, to another, shall be paid travelling allowance for journey to his place of employment under this Act at such rate as may be prescribed.

(3) A qualified person who, on the date of the service of the enlistment notice on him, is engaged in any employment, or a qualified person who is transferred from one form of national service, or from one place of employment in the national service, to another, shall be paid, for the period of his transit from the place of his former employment to the place of his employment under this Act, salary or wages (including allowances) at the rate fixed by the Central Government under sub-section (1).

(4) A qualified person who was in any employment on the date on which he was called up for national service under this Act, shall, on his discharge from such service, be paid salary or wages (including allowances) for the period of his transit from the place of his employment under this Act to the place of his former employment at the rate fixed by the Central Government under sub-section (1).

(5) A qualified person who is called up for national service under this Act shall, on the termination of his national service, be paid travelling expenses at such rate as may be prescribed, for journey to the place of his former employment, or, if he was unemployed when he was first called up for national service under this Act, to the place of his residence.

Training.

16. During his term of national service a qualified person may be required to undergo training for such period as may be prescribed.

Discharge.

17. (1) Every qualified person enlisted under this Act shall be entitled to receive his discharge from national service on the expiration of the period for which he was enlisted and such person may, prior to the expiration of that period, be discharged from national service by such authority and subject to such conditions as may be prescribed.

(2) A person receiving discharge under this section shall be given a certificate in such form as may be prescribed certifying that he has been discharged from national service.

(3) A person who has received discharge under this section shall not be required to render national service after such discharge:

Provided that a person who has received discharge under this section before he has completed four years of national service, shall, unless he has ceased to be liable to be called up for national service under this Act, be liable to be called up for national service under this Act for such term as will, together with the period of national service rendered by him, be equivalent to four years.

CHAPTER IV

POSTPONEMENT OF NATIONAL SERVICE

National Service (Hardship) Committee.

18. (*1*) The Central Government shall constitute a National Service (Hardship) Committee consisting of a Chairman and two other members appointed by it.

(*2*) The Chairman of the National Service (Hardship) Committee shall be a person who is, or has been, or is qualified to be, a Judge of a High Court.

(*3*) The members of the National Service (Hardship) Committee shall hold office for a period of three years but shall be eligible for reappointment.

(*4*) The proceedings of the National Service (Hardship) Committee shall not be invalid by reason of any defect in the constitution of, or any vacancy in, such Committee.

(*5*) Any vacancy in the National Service (Hardship) Committee shall be filled by the Central Government in such manner as it may think fit.

(*6*) The Central Government may constitute Regional National Service (Hardship) Committees for such regions as it may think fit and on such constitution such Regional National Service (Hardship) Committees shall have all the powers, functions and privileges of the National Service (Hardship) Committee and shall be subject to the same provisions as are applicable to that Committee.

(*7*) The National Service (Hardship) Committee shall have power to regulate its own procedure with regard to any investigation under this Act and shall have for the purposes of such investigation the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents producible as evidence;

(*c*) receiving evidence on oath;

(*d*) issuing commissions for the examination of witnesses or documents;

(*e*) such other matters as may be prescribed.

Application for postponement on grounds of hardship.

19. (*1*) Any qualified person who is for the time being liable to be called up for national service under this Act and who has been served with a notice referred to in sub-section (*1*) of section 13, or any employer of such qualified person, may apply, in the prescribed manner to the Central Government for a certificate of postponement of liability to be called up for national service on the ground that exceptional hardship would ensue if such qualified person were called up for national service, and may, on that ground apply, in the prescribed manner, for the renewal of the postponement certificate granted to him.

(*2*) Where an application for a postponement certificate or for the renewal thereof is made, the Central Government shall refer the application for decision to the National Service (Hardship) Committee.

(3) No application for the grant of a postponement certificate shall be referred by the Central Government to the National Service (Hardship) Committee unless such application is made within sixty days from the date of service of the notice referred to in sub-section (1) of section 13:

Provided that the Central Government may refer an application for the grant of a postponement certificate to the National Service (Hardship) Committee made after the expiry of the said period if it is satisfied, having regard to the grounds on which the application is made, that the making thereof has not been unreasonably delayed.

(4) The Central Government may by regulations specify the principles to be applied and the circumstances to which regard is to be or not to be had for the hearing of an application for the grant or renewal of a postponement certificate and as to the period for which the postponement certificate may be granted or renewed.

(5) The National Service (Hardship) Committee may, after consideration of the application for a postponement certificate or renewal thereof, grant or reject the same.

(6) The period within which the postponement certificate is in force shall be added to the period during which the person to whom the certificate was granted is liable under this Act to be called up for national service and accordingly this Act shall in relation to that person have effect as if for reference therein to the age of thirty years, there were substituted, an age being the sum of thirty years and the period during which—

(*i*) the postponement certificate is in force, and

(*ii*) the enlistment notice was of no effect by reason of the provisions of clause (*b*) of sub-section (4) of section 14.

(7) If any qualified person or an employer makes an application for a postponement certificate on a ground which he knows to be false or does not believe to be true or on a ground which, in the opinion of the National Service (Hardship) Committee, is frivolous, he shall be liable to be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Appeal from decision of the National Service (Hardship) Committee.

20. (1) Subject to the provisions of sub-section (2), an appeal shall lie against the decision of the National Service (Hardship) Committee to the High Court exercising jurisdiction in relation to the territory in which the applicant for the postponement certificate voluntarily resides, carries on business or personally works for gain.

(2) No appeal referred to in sub-section (1) shall lie unless—

(*i*) it is preferred within thirty days from the date of the decision of the National Service (Hardship) Committee, and

(*ii*) the National Service (Hardship) Committee certifies that the case involves a substantial question of law.

(3) Where the National Service (Hardship) Committee has refused to give a certificate referred to in sub-section (2), the High Court may, if it is satisfied that the case involves a substantial question of law, grant

special leave to appeal against the decision of the National Service (Hardship) Committee.

(4) The High Court may, after hearing the appeal, confirm, modify or reverse the decision of the National Service (Hardship) Committee.

Revocation of postponement certificate.

21. (1) If, at any time, while a postponement certificate is in force, it appears to the Central Government that, by reason of any change in the circumstances of the qualified person to whom the certificate was granted or of his employer, where such certificate was granted on the application of such employer, the certificate ought to be revoked or the period for which it was granted or last renewed ought to be shortened, the Central Government may apply to the National Service (Hardship) Committee, and that Committee may either reject the application or cancel the certificate or vary it by shortening the period.

(2) Where an application is made under sub-section (1), the person to whom the postponement certificate in question was granted, and where such certificate was granted on the application of an employer, such employer, shall be entitled to be heard on the application and the provisions as to appeals contained in section 20 shall apply in relation to the application as if it were an application for the grant of a postponement certificate.

Suspension of right to postponement of liability to be called up for national service.

22. (1) The Central Government may, if it is satisfied at any time that by reason of the gravity of the situation it is necessary so to do, by order—

(a) cancel, either generally or in relation to a specified class of qualified persons, all postponement certificates in force at the date of the order, and

(b) abrogate, either generally or in relation to a specified class of qualified persons, any right to apply for the grant of a postponement certificate and any right to appeal from the refusal to grant such a certificate, and may, by order, vary or revoke any order in force under this section, without prejudice however to the previous effect of that order.

(2) Where, on the day on which an order comes into force under this section abrogating any right to appeal from the refusal to grant a postponement certificate, an appeal preferred by a person to whom the order applies or the time for preferring such appeal by such person has not expired, the appeal shall be deemed to be dismissed or the time shall be deemed to expire on the expiry of that day.

CHAPTER V

REINSTATEMENT OF QUALIFIED PERSONS CALLED UP FOR NATIONAL SERVICE

Reinstatement.

23. (1) In this section,—

(a) "former employee" means a qualified person who was released by an employer for employment in national service;

(b) "former employer" means the employer by whom a former employee was employed in an establishment immediately before the enlistment of such employee for national service;

(c) "former employment" means the employment in which the former employee was employed immediately before his enlistment for national service.

(2) (a) A former employee may, on the termination of his national service, make an application in such manner and within such period as may be prescribed to his former employer for reinstatement in his former employment.

(b) On receipt of an application referred to in clause (a), the former employer shall be under an obligation (unless the employment of the former employee in the national service was terminated by dismissal for misconduct) to reinstate such employee before the expiry of a period of fifteen days from the date of receipt of such application.

(3) (a) If, on receipt of an application referred to in sub-section (2) the former employer refuses to reinstate the applicant on the ground that his circumstances have so changed as to make it impossible or unreasonable for him to do so, or denies his liability to reinstate such former employee, or represents that the reinstatement by him of the former employee is impracticable, he shall, before the expiry of a period of fifteen days from the date of receipt of such application, make an application to the National Service (Hardship) Committee for relieving him from the obligation referred to in sub-section (2).

(b) A former employee, who is not reinstated in his former employment within fifteen days from the date of delivery of the application made under sub-section (2), may, within a further period of fifteen days (computed from the date on which the first-mentioned period of fifteen days expires), represent to the National Service (Hardship) Committee that his former employer has not discharged the obligation imposed on him by sub-section (2).

(c) On receipt of the application referred to in clause (a) or the representation referred to in clause (b), the National Service (Hardship) Committee shall, after considering all matters placed before it and after making such inquiry in the matter as it may think fit, make an order—

(i) relieving the former employer from the obligation referred to in sub-section (2), or

(ii) requiring the former employer to reinstate the former employee in his former employment, or

(iii) requiring the former employer to pay to the former employee by way of compensation, for failure or inability to reinstate him, a sum not exceeding an amount equal to six months' remuneration at the rate at which remuneration was last payable by the former employer to the former employee.

(d) Where the National Service (Hardship) Committee has directed the reinstatement of any person in his former employment, the former employer shall be under an obligation to pay to such person salary and allowances at the rates specified by the National Service (Hardship) Committee from the date of receipt of the application referred to in sub-section (2).

(4) (a) A former employer, who has refused to reinstate his former employee on any of the grounds specified in sub-section (3) and who has

omitted or failed, without any reasonable excuse, to make an application to the National Service (Hardship) Committee within the time specified in sub-section (3), shall be punished, without any prejudice to the provisions of clause (b) of this sub-section, with imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both.

(b) If any former employer fails to obey any order made by the National Service (Hardship) Committee under sub-section (3), he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both, and the court by which such former employer is convicted under this sub-section shall order him to pay to the person whom he has failed to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the former employer and any amount so required to be paid shall be recoverable as if it were a fine imposed by such court.

(5) Where in pursuance of the provisions of sub-section (2) a former employer reinstates his former employee and thereafter terminates the employment of such former employee at any time within a period of six months from the date of such reinstatement, the former employer shall, notwithstanding anything to the contrary contained in the conditions of employment of the former employee, be liable to pay to the former employee, at the time of terminating his employment as aforesaid, a sum equal to the remuneration which the former employee would have earned under the terms and conditions of his re-employment for the unexpired portion of the said period of six months:

Provided that a former employer shall not be liable to make such payment as aforesaid where the employment of the former employee is terminated for the reason that the former employee has been guilty of gross insubordination, habitual absence from work or any serious misconduct or has been convicted of any offence:

Provided further that a former employee whose employment is terminated within the said period for any such reason as aforesaid may refer the matter to the National Service (Hardship) Committee and that Committee shall, after due consideration, decide whether or not the employer is liable as aforesaid under this sub-section; and any such decision shall be final and binding on the parties.

Explanation.—Any sum required to be paid under this sub-section shall be in addition to the amount, if any, which the employer may, under the conditions of employment be liable to pay in respect of the termination of the employment of the former employee without notice.

(6) No change in the name, constitution or character of the former employer shall affect the right of reinstatement of a former employee who has been released from employment in national service.

(7) (a) The occupation in which and the terms and conditions under which a qualified person may be reinstated after completion of national service shall not be less favourable to him than those which would have been applicable to him had his employment not been interrupted by reason of his being called up for national service.

(b) In determining the terms and conditions of reinstatement of the former employee, regard shall be had to the additional skill and

experience acquired by such employee in the course of his employment in the national service.

Preservation of certain rights of qualified persons required to render national service.

24. While any qualified person, required to render national service under this Act, has any rights under any provident fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in national service and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.

CHAPTER VI

OTHER OFFENCES AND PENALTIES

False statement and forgery.

25. (*1*) If any qualified person—

(*a*) on whom an enlistment notice has been served under this Act and in respect of whom no postponement certificate is in force or no application or appeal for postponement of national service is pending, fails or omits to render the service which he is required by such notice to render, or

(*b*) having commenced to render national service, leaves that service without obtaining a discharge under section 17,

he shall be punished with imprisonment for a term which may extend to five years and also with fine which may extend to two thousand rupees.

(*2*) Any person who—

(*a*) in giving any information for the purposes of this Act, knowingly or recklessly makes a statement which is false in material particulars or which he does not believe to be true, or

(*b*) (*i*) with the intention of deceiving, forges or uses or lends or allows to be used for any person any certificate issued under this Act, or

(*ii*) makes, or has in his possession, any document so closely resembling any certificate so issued as to be calculated to deceive,

shall be punished with imprisonment for a term not exceeding three years, or with fine not exceeding one thousand rupees, or with both.

General provision as to offences.

26. Any qualified person who contravenes any provision of this Act for the contravention of which no penalty is separately specified in this Act, shall be punished with fine which may extend to five hundred rupees:

Provided that in any proceedings for an offence punishable under this section, it shall be a defence for the accused to prove that he was prevented from complying with the provisions of this Act by circumstances beyond his control.

Offences by companies.

27. (*1*) Where any provision of this Act or of any order made thereunder is contravened by a company, every person who at the time the contravention was made was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any such offence has been committed and it is proved that the offence has been committed with the consent or connivance, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

CHAPTER VII

MISCELLANEOUS

Information to be furnished by Universities, etc.

28. It shall be the duty of every University or other persons having the management of any University, school or other educational institution, to give to the Central Government, at its request, such information in their possession, or reasonably available to them, about persons receiving, or who have received education in engineering, technology, medical sciences or surgery as the Central Government may, by notification, specify in this behalf.

Information to be furnished by District Magistrate.

29. It shall be the duty of every District Magistrate to give to the State Government such information in his possession about qualified persons within the local limits of his jurisdiction as may be prescribed, and it shall be the duty of every State Government to give to the Central Government all information in its possession about qualified persons in the State.

Priority of debts.

30. Notwithstanding anything contained in the Presidency Towns Insolvency Act, 1909, the Provincial Insolvency Act, 1920, the Companies Act, 1956, or the Partnership Act, 1932, any compensation payable under this Act shall have priority over all other unsecured debts. 3 of 1909. 5 of 1920. 1 of 1956. 9 of 1932.

Summary trial of offences.

31. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence punishable under this Act shall be tried summarily. 5 of 1898.

Jurisdiction to try offences.

32. No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

Protection of action taken in good faith.

33. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

(2) No suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

Removal of difficulties.

34. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order, not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing the difficulty:

Provided that no order shall be made under this sub-section after the expiry of a period of two years from the commencement of this Act.

(*2*) Every order made under sub-section (*1*) shall be laid before both Houses of Parliament as soon as may be after it is made and the provisions of section 38 shall apply to such order as if it were a rule made under this Act.

Power to delegate.

35. The Central Government may, by notification, direct that all or any of the powers which may be exercised by it under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised also by any State Government or any other authority owned or controlled by the Central Government.

Power to make rules.

36. (*1*) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the principles governing the calling up of persons for national service;

(*b*) the form and contents of the National Service Register;

(*c*) the form in which the certificate of registration is to be issued;

(*d*) the manner of notification of preference for any branch of the Armed Forces of the Union;

(*e*) the manner of notification of change of name or address of, or acquisition of academic or professional qualification or distinctions by, a qualified person registered under this Act;

(*f*) the circumstances under which fresh certificates of registration in place of certificates which have been lost, destroyed or defaced may be issued;

(*g*) the form and contents of the notice for examination of physical and mental fitness;

(*h*) the scale in accordance with which travelling and other allowances may be paid to medical or other authority or specialist or to any qualified person undergoing any examination of physical and mental fitness and the scale according to which compensation may be paid for loss of remunerative time;

(*i*) the priorities in accordance with which qualified persons may be enlisted for national service;

(*j*) the form and contents of the enlistment notice and the manner of service thereof;

(*k*) the scales of salary, wages, allowances, pensions, disability and death compensations and other financial benefits admissible to those performing national service;

(*l*) the scales of travelling allowances required to be paid under this Act;

(*m*) the authority by which and conditions subject to which prior discharge from national service may be made;

(*n*) the form of discharge certificate;

(o) the manner of application for a certificate of postponement of liability to be called up for national service or for renewal thereof and the time within which such application for renewal should be made;

(*p*) the conditions of reinstatement of persons released from employment in the national service and matters connected therewith;

(*q*) further inquiry which may be made by the National Service (Hardship) Committee where reinstatement of qualified persons released from employment in the national service is refused or denied or where such reinstatement is represented to be impracticable;

(*r*) the preservation of rights of provident fund, etc., of qualified persons rendering national service;

(*s*) the information relating to qualified persons which every District Magistrate shall furnish to the State Government;

(*t*) any other matter which is required to be, or may be, prescribed under this Act.

(*3*) Any rule made under this Act may provide that a contravention of the rule shall be punished with imprisonment for a term not exceeding six months, or with fine not exceeding one thousand rupees, or with both.

Power to make regulations.

37. The Central Government may make regulations not inconsistent with this Act, to provide for all or any of the following matters, namely:—

(*a*) enabling or requiring a qualified person to be transferred to any branch of the Armed Forces of the Union or to any other branch of national service;

(*b*) examination of physical and mental fitness of qualified persons subject to registration under this Act;

(*c*) determination of the categories in which qualified persons whose physical and mental fitness has been examined shall be placed by reference to their physical or mental conditions or both;

(*d*) specification of the principles to be applied and the circumstances to be considered while hearing an application for the grant or renewal of a postponement certificate;

(*e*) specification of the period for which a postponement certificate may be granted or renewed;

(*f*) any other matter for which regulations are required to be, or may be, made under this Act.

Rules and regulations to be laid before Parliament.

38. Every rule and every regulation made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification to the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

STATEMENT OF OBJECTS AND REASONS

In the wake of the Chinese aggression, Government formulated a Compulsory Liability Scheme whereby engineers and doctors belonging to certain age groups, who were either in Government service or in the service of any public sector undertaking, were made liable to render service in the Armed Forces of the Union for a specified period. It is apprehended that this scheme might lead to a diversion of medical and engineering graduates away from Government service or service in any public sector undertaking. Besides, it has been found that the Compulsory Liability Scheme cannot, by itself, be relied upon to provide a sufficient number of doctors and engineers for the Armed Forces of the Union or for other forms of national service. It is, therefore, considered necessary that this liability should be extended to all persons who hold recognised medical qualifications within the meaning of the Indian Medical Council Act, 1956, or a degree in engineering or technology, or both. It is also felt that the Scheme should cover any kind of national service which the Government may specify and that the Scheme should not be restricted in its scope to defence efforts only. This will have the advantage of widening the base of recruitment to the Armed Forces of the Union and will also help in ensuring that doctors or engineers required for activities of national importance such as, construction of dams in remote and difficult areas, family planning programme and health services in rural areas, etc., become available. It will also enable the setting up of an agency fully equipped with detailed and up-to-date information regarding the availability of engineers and doctors and of a machinery for their mobilisation which will be essential in the event of an emergency.

2. The Bill seeks to restrict the period for which persons may be called up for rendering national service to a period not exceeding four years. The Bill seeks to impose a further restriction to the effect that the liability of a qualified person shall come to an end on his attaining the age of thirty years.

3 The Bill also provides for payment to persons called up for rendering national service of remuneration at a scale which is not less favourable than the remuneration admissible to similarly placed Government employees. The Bill also provides that where a person, in employment, is called up for rendering national service, his former employer shall be under an obligation to reinstate him in his former employment on terms and conditions which are not less favourable to him than those to which he was entitled before he was called up for national service.

4. The Bill seeks to give effect to the purposes mentioned above.

NEW DELHI; K. C. PANT.
The 9th February, 1972.

FINANCE MEMORANDUM

Clauses 11, 12, 13, 14 and 15 of the Bill provide for compulsory registration of persons liable to perform national service and the Central Government is required under the Bill to register and enlist qualified persons for national service. It is intended that the registration of qualified persons and other items of work connected therewith may be done through the agency of employment exchanges. A headquarters establishment would have to be set up to consolidate registration particulars and act on indents, issue various notifications and notices, etc.

Clause 18 of the Bill requires the Central Government to constitute a National Service (Hardship) Committee which will decide on applications for postponement of national service and enforce the reinstatement of an employee after completion of the national service.

The expenditure on account of the staff that may have to be incurred in this connection, together with incidental expenses, will be about Rs. 5,57,000 per year. There will be no non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 36 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The matters in respect of which such rules may be made relate to the principles governing the calling up of persons for national service, form and contents of the National Service Register and the Certificate of Registration, priorities in accordance with which qualified persons may be enlisted for national service, scales of travelling allowances required to be paid, etc.

Clause 37 of the Bill empowers the Central Government to make regulations. The power of making regulations is confined to making provisions for the examination of physical and mental fitness of qualified persons subject to registration, determination of the categories to which the persons who have been examined should be placed and specification of the principles to be applied by the National Service (Hardship) Committee while hearing an application for the grant of postponement certificate.

The matters in respect of which any rule or regulation may be made are matters of detail or of procedure within the scope of the general provisions and guiding principles of the Act and it is not possible to provide for them in the Act. The delegation of legislative power is, therefore, of a normal character.

S. L. SHAKDHER,
Secretary.

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